

## Further information

Guardianship associations (Betreuungsvereine) and guardianship authorities (Betreuungsbehörden) in Schleswig-Holstein can provide further information on guardianship legislation and support for voluntary guardians and agents. For a list of guardianship associations and authorities in German, go to the website of the Ministry of Justice, Cultural and European Affairs ([www.mjke.schleswig-holstein.de](http://www.mjke.schleswig-holstein.de)) and search for 'Betreuungsvereine'.

Further information on advance directives is available in German on the website of the Federal Ministry of Justice (Bundesministerium der Justiz) at [http://www.bmj.de/DE/Buerger/gesellschaft/Patientenverfuegung/\\_doc/Patientenverfuegung\\_doc.html](http://www.bmj.de/DE/Buerger/gesellschaft/Patientenverfuegung/_doc/Patientenverfuegung_doc.html) and in the German-language brochure 'Das Betreuungsrecht – mit ausführlichen Informationen zur Vorsorgevollmacht', which can be accessed on the website of the Ministry of Justice, Cultural and European Affairs ([www.mjke.schleswig-holstein.de](http://www.mjke.schleswig-holstein.de)).

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## Guardianship and Healthcare Proxy

Accidents, illness or old age can impair an adult's capacity to deal with important matters. In such a situation, spouses, children or close relatives are not automatically entitled to act on behalf of this person or represent them legally. Contrary to popular belief, spouses have no statutory right to represent each other, nor do children have a statutory right to represent their parents. German law has made a range of provisions to ensure that you are able to safeguard your interests and settle your affairs should your health become seriously impaired.

## Legal guardianship

If an adult becomes partly or entirely incapable of arranging his or her affairs due to illness or disability, a court may appoint a guardian (Betreuer). The court will give precedence to voluntary guardians. If such a guardian is not available, the court will appoint a professional guardian. The guardian can assume responsibility for the individual in question in particular areas, known as 'fields of activity'. Fields of activity are, for example, matters regarding housing, economic assets or healthcare. The wishes of the person concerned must be taken into consideration insofar as they are in the interests of that person. The court will appoint a guardian only if it is deemed necessary. This applies to various scenarios. Guardianship is not necessary if, for example, the person concerned has appointed an agent to represent him or her legally. This can take the form of a healthcare proxy (please consult the section below for more information). In the absence of a healthcare proxy, the court will appoint a guardian to take charge of the relevant fields of activity and related matters in place of the person concerned. Lastly, a guardian may be appointed only for as long as the person concerned requires such assistance.

## Legal proceedings

The guardianship court (Betreuungsgericht) is responsible for appointing guardians. The person concerned may submit an application to appoint a guardian. Third parties, e. g. family members, neighbours or friends, may also put forward a proposal to appoint a guardian. The court subsequently checks whether a guardianship is necessary. If the court establishes that a guardian is required it issues an order, citing the fields of activity relevant to the guardianship and the name of the guardian.

## Healthcare proxy

A healthcare proxy (Vorsorgevollmacht) is an instrument that enables you to appoint a person who will act as your agent if you are no longer capable of dealing with particular affairs. These can include, for example, dealing with bank or insurance transactions or signing a contract with a nursing home. If you have not appointed a healthcare proxy and are (partly) incapable of looking after your affairs, a guardian will generally be appointed by order of the court. In many cases, duly appointing a healthcare proxy can therefore prevent the institution of legal proceedings to appoint a guardian.

For more detailed information on this topic in German, go to the website of the Schleswig-Holstein Ministry of Justice, Cultural and European Affairs (Ministerium für Justiz, Kultur und Europa) ([www.mjke.schleswig-holstein.de](http://www.mjke.schleswig-holstein.de)) and search for 'Betreuungsrecht'.

You can also register a healthcare proxy at the Association of German Civil Law Notaries (Bundesnotarkammer) for a small fee. This guarantees that your choice of healthcare proxy will not be overlooked at a later stage. More detailed information is available in German on the website of the Central Register of Enduring Powers of Attorney (Zentrales Vorsorgeregister) ([www.vorsorgeregister.de](http://www.vorsorgeregister.de)).

## Advance directives

An advance directive (Patientenverfügung) allows you to determine in advance if and how you would like to receive medical treatment in particular situations should you be incapable of making an autonomous decision due to illness, an accident or old age. An advance directive enables you to specify whether or not you give your consent to procedures to prolong your life in particular circumstances. An advance directive must be drawn up in writing and personally signed by the patient. It is important to recognize the clear distinction between a healthcare proxy and an advance directive. Whereas a healthcare proxy specifies who can become your legal representative should your health become seriously impaired, an advance directive solely concerns the medical treatment you wish to receive should you become incapable of expressing this wish at some point.